

1 *E-filed on 9/8/06*

2

3

4

5

6

7

8

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

9

10

11

12 IN RE CYGNUS TELECOMMUNICATIONS  
13 TECHNOLOGY, LLC, PATENT  
14 LITIGATION

No. MDL-1423  
This Order Applies to All Actions

15

THIS ORDER RELATES TO:  
All Actions

C-02-00142 RMW  
C-02-00145 RMW  
C-02-05437 RMW  
C-03-03594 RMW  
C-03-03596 RMW  
C-03-03378 RMW  
C-03-04003 RMW  
C-04-03001 RMW  
C-04-03365 RMW  
C-04-04247 RMW  
C-04-04359 RMW  
C-06-03843 RMW  
C-06-04295 RMW

16

17

18

19

20

21

ORDER RE COST OF PRODUCING  
DOCUMENTS IN CYGNUS'S POSSESSION

22

23

24

25

26

27

28

As noted in this court's July 14, 2006 order, Cygnus's counsel possesses approximately twenty-five boxes of documents from past Cygnus infringement actions which defendants want scanned and placed in the parties' discovery depository. Cygnus objected that it should not have to pay for producing these documents. The court preliminarily approved defendants' suggestion that they be allowed to have these documents scanned at their expense, with the possibility that they at some point in the future be allowed to seek reimbursement of some of this cost from Cygnus.

1 Defendants' liaison counsel estimated that it would cost \$17,000 to scan the contents of the  
 2 twenty-five boxes of documents subject to the limitations of the July 14, 2006 order. *See Report of*  
 3 *Liaison Counsel* (July 17, 2006). At the August 18, 2006 hearing, the parties informed the court that  
 4 counsel for defendant AT&T Corporation, Gregory B. Wood, had assumed the responsibility for  
 5 sorting through these boxes and deciding what should be scanned. The estimate seems reasonable  
 6 enough for the undertaking as limited by Mr. Wood's sorting. Defendants may therefore scan these  
 7 documents at their own expense and move for reimbursement from Cygnus at some future date, if  
 8 appropriate. The court tentatively finds that Cygnus should bear the expense of scanning those  
 9 documents that is required to disclose pursuant to Fed.R.Civ.P. 26(a)(1).

10 Also at the August 18, 2006 hearing, counsel for Cygnus reported that another defendant  
 11 wanted to independently examine the contents of the boxes for itself, although all participating in the  
 12 hearing agreed to abide by Mr. Wood's decision on what documents should be scanned. No party  
 13 was identified as objecting to this procedure. If any defendant other than AT&T wishes to examine  
 14 these boxes, it must obtain court approval before doing so.<sup>1</sup>

15

16

17 DATED: 9/8/06



---

 RONALD M. WHYTE  
 United States District Judge

19

20

21

22

23

24

25

26

---

<sup>1</sup> If counsel for the defendants in the newest additions to MDL proceedings before this court (those in cases C-06-03843 RMW and C-06-04295 RMW) object on the basis that they have not agreed to have Mr. Wood examine the documents in these boxes for them, they may apply to the court for permission to review the documents themselves.

1 **A copy of this order was mailed on \_\_\_\_\_ to:**

2 **Counsel for Plaintiff:**

3 John P. Sutton  
2421 Pierce Street  
4 San Francisco, CA 94115-1131

5 **Counsel for Defendants:**

6 Alan M. Weisberg, Steven M. Greenberg  
Christopher & Weisberg, P.A.  
7 200 E. Las Olas Avenue  
Suite 2040  
8 Fort Lauderdale, FL 33301

9 John C. Carey  
Rodriguez Greenberg & Paul  
10 1395 Brickell Ave, Suite 700  
Miami, FL 33131

11 Felice B. Galant, Gregory B. Wood  
12 Fulbright & Jaworski L.L.P.  
865 South Figueroa Street  
13 Twenty-Ninth Floor  
Los Angeles, CA 90017

14 Joseph P. Zammit  
15 Fulbright & Jaworski  
666 Fifth Avenue  
16 New York, NY 10103

17 John F. Mardula, Jon L. Roberts  
18 Roberts Mardula & Wertheim, LLC  
11800 Sunrise Valley Drive  
19 Suite 1000  
Reston, VA 20191-5302

20 Richard B. Sheldon  
21 Mitchell Silberberg & Knupp LLP  
11377 West Olympic Boulevard  
Los Angeles, CA 90064-1683

22 Jeffrey L. Silvestrini, Brian F. Roberts  
23 Cohne Rappaport & Segal  
P.O. Box 11008  
24 Salt Lake City, UT 84147-0008

25 Raymond J. Etcheverry  
26 Parsons, Behle & Latimer  
One Utah Center  
201 South Main Street,  
27 Suite 1800, Post Office Box 45898  
Salt Lake City, UT 84145

Kieran Patrick Fallon  
436 SW 8th Street  
Miami, FL 33130-2814

Matthew Francis McGahren  
Baum & McGahren  
6171 Crooked Creek Road  
Norcross, GA 30092

Lori D. Greendorfer, Maxim H. Waldbaum  
Schiff Hardin LLP  
623 Fifth Avenue  
28th Floor  
New York, NY 10022

Thomas T. Tamlyn  
Yeskoo Hogan & Tamlyn, LLP  
535 Fifth Avenue  
New York, NY 10017

Peter S. Canelias  
Law Offices of Peter S. Canelias  
420 Lexington Avenue  
Suite 2148  
New York, NY 10170

David T. Alexander  
MBV Law LLP  
855 Front Street  
San Francisco, CA 94111

Jon M. Gibbs  
Akerman, Senterfitt  
255 S. Orange Avenue  
Suite 1700  
Post Office Box 0231  
Orlando, FL 32802-0231

Elizabeth E. Green, R. Scott Shuker  
Gronek & Latham, LLP  
390 N. Orange Avenue  
Suite 600  
Orlando, FL 32801

Meredith L. Caliman  
Meredith L. Caliman Law Offices  
3858 Carson Street, Suite 120  
Torrance, CA 90503-6705

Gregory J. Nelson  
Nelson & Roediger  
3333 E Camelback Road, Suite 212  
Phoenix, AZ 85018

1 Peter Neil Greenfeld  
2 Greenfeld Law Group  
3 3333 E Camelback Road, Suite 212  
4 Phoenix, AZ 85018-2324  
5  
6 Matthew McGahren  
7 Baum, McGahren & Chiu, LLC  
8 6171 Crooked Creek Road  
9 Norcross, GA 30092

**Courtesy Copy:**

Clerk of the Panel  
Judicial Panel on Multidistrict Litigation  
Thurgood Marshall Federal Judiciary Building  
One Columbus Circle, N.E.  
Room G-255, North Lobby  
Washington, DC 20002-8004

10  
11 Counsel for plaintiff is responsible for ensuring that involved attorneys not on the above service list  
12 receive a copy of this order, if necessary, and shall inform the court of any omissions.  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28